



Template affidavit for use by accused in support of an application for bail or variation of bail, or in response to application for revocation of bail or an appeal against a bail decision

Prepared by the Supreme Court Criminal Registry

Revised on 18 September 2024

This template should be used by accused in support of their application for bail or variation of bail, or in response to an application for revocation of bail or an appeal against a bail decision. The template is designed to be indicative of the information required by the court and is designed to assist accused and their lawyers, to be adapted as necessary to suit the particular circumstances of each case. While it is a matter for parties to put relevant information before the court, there is an expectation that in addition to information about Victorian matters, information about past, pending and subsequent interstate matters is also provided. If the applicant wishes to put further information before the court after filing the initial affidavit in support, a supplementary affidavit in support can be filed.

Practice Note SC CR 2 Bail Applications and Appeals (Fourth Revision) and the *Bail Regulations 2022* outline how to make an application for bail or variation of bail. If there is any disparity with this template, the Practice Note and the Regulations govern the position.

**IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
CRIMINAL DIVISION**

S ECR [proceeding no.]

IN THE MATTER of the *Bail Act 1977* (Vic)

- and -

IN THE MATTER of an application for bail by [name of applicant]

BETWEEN:

[name of applicant]

Applicant

- and -

[Victoria Police] or [Australian Federal Police]

Respondent

AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR BAIL

Date of document:
Filed on behalf of:
Prepared by:
[name of solicitor]
[name of legal practice]
[professional address]

Solicitor's code:
DX:
Telephone:
Ref:
Email:

I, [full name] of [insert place], [insert occupation], [make oath and say] or [affirm] as follows:

1. I am an Australian Legal Practitioner employed at [insert legal practice] and am the solicitor with carriage of this matter.

2. I make this affidavit in support of an application for bail by [insert name of the applicant].
3. The matters deposed to in this affidavit are within my personal knowledge unless otherwise specified.

Table 1: Charges for which the applicant seeks bail

Details	Charges and dates of the alleged offending	Bail status	Case number
<p>[Name of informant]</p> <p>Charge date:</p> <p>Remand date:</p> <p>Next listed: [Insert all existing future dates] at [court] for [nature of the hearing]</p>	<p>[Insert detail of the charges and dates of the alleged offending. For example:</p> <ol style="list-style-type: none"> 1. Threat to inflict serious injury on 25 March 2024; and 2. Reckless conduct endanger serious injury on 25 March 2024] 	<p>On remand</p> <p>Bail refused at [court] on [date]</p>	<p>[Insert case number from primary court]</p>

4. Exhibited to this affidavit and marked **Exhibit [XXX-1]** are true copies of the charges and summaries of the alleged offending. *Note: A certificate identifying the exhibit must be attached to the exhibited document, dated, and signed by the deponent of the affidavit and a witness. The witness must legibly endorse below their signature their name, address, and a statement of their capacity in which they have authority to take the affidavit.*

5. I confirm that [Victoria Police] and/or [Office of Public Prosecutions] and/or [the Office of the Commonwealth Director of Public Prosecutions] has/have carriage of the remand matter/s.

6. I confirm that no other bail applications are pending (listed or filed) in any other courts.

Bail onus and applicable legislation

7. [State the applicable test for the bail application, such as, prima facie entitled to bail, compelling reason or exceptional circumstances, and outline the reason with reference to the specific schedule and item number/s.]

8. [If the applicant is an Aboriginal person, identify and address any issues that arise due to the applicant's Aboriginality, including with reference to any relevant matters outlined in section 3A of the *Bail Act 1977 (Vic)*.]

9. [If the applicant is a child, address the factors outlined in section 3B of the *Bail Act 1977 (Vic)*.]

Co-accused

10. [Provide details of any co-accused, including their respective charges, prior criminal history, and their bail/remand status.]

Table 2: Other outstanding charges – where the applicant is on bail

Details	Charges and dates of the alleged offending	Bail status	Case number
[Name of informant]	[Insert detail of the charges and dates of the alleged offending. For example:	On bail	[Insert case number from

Charge date: Next listed: [Insert all existing future dates] at [court] for [nature of the hearing]	1. Threat to inflict serious injury on 25 March 2024; and 2. Reckless conduct endanger serious on 25 March 2024]	Bail granted at [court or police station] on [date]	primary court]
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11. Exhibited to this affidavit and marked **Exhibit [XXX-2]** are true copies of the charges, summaries for which the applicant is on bail.

Table 3: Other outstanding charges – where the applicant is on summons

Details	Charges and dates of the alleged offending	Case number
[Name of informant] Charge date: Summons date: Next listed: [Insert all future listing dates] at [court] for [nature of the hearing]	[Insert detail of the charges and dates of the alleged offending. For example: 1. Theft on 25 March 2024; and 2. Unlawful assault on 25 March 2024]	[Insert case number from primary court]

12. Exhibited to this affidavit and marked **Exhibit [XXX-3]** are true copies of the charges and summaries for which the applicant is on summons.

Other outstanding matters

13. [Provide detail of any matters for which the applicant is, or was at the time of the alleged offending in the matter/s on which the applicant is now seeking bail:

- a) at large awaiting trial or sentence;
- b) on remand;
- c) on a community correction order;
- d) otherwise serving a sentence; or
- e) released under a parole order.

And further note whether these matters include Schedule 1 or Schedule 2 offences.]

14. Exhibited to this affidavit and marked **Exhibit [XXX-4]** are true copies of the documents for the matter/s including Schedule 1 or Schedule 2 offences in which the applicant is, or was at the time of the alleged offending in the matter/s on which the applicant is now seeking bail:

- a) on remand;
- b) at large awaiting trial or sentence;
- c) on a community correction order; otherwise serving a sentence;
- d) or released under a parole order.

Relevant procedural history

[Provide all relevant procedural history with respect to previous applications for bail or applications for revocation of bail, and detail the reasons for refusal or revocation of bail using table below.]

Table [insert number]: Chronology of relevant procedural history

Chronology of relevant procedural history	
26 March 2024	Applicant charged and remanded in custody (informant Brown)
27 March 2024	Applicant granted bail at Melbourne Magistrates' Court (informant Brown)

19 April 2024	Applicant charged and remanded in custody (informant Singh)
26 April 2024	Applicant refused bail at Melbourne Magistrates' Court (informant Singh) Bail revoked at Melbourne Magistrates' Court (informant Brown)
3 May 2024	Application for bail filed in the Supreme Court

15. Exhibited to this affidavit and marked **Exhibit [XXX-5]** are true copies of all previous bail refusal and/or bail revocation extracts in this matter.

Criminal history

16. The applicant has no criminal history.

- OR -

The applicant has a criminal history and exhibited to this affidavit and marked **Exhibit [XXX-6]** is a true copy of the applicant's criminal history.

Intervention orders

17. There are no family violence intervention orders, family violence safety notices, recognised domestic violence orders, or personal safety intervention orders in force against the applicant.

- OR -

[Provide details of any family violence intervention orders, family violence safety notices, recognised domestic violence orders, or personal safety intervention orders in force against the applicant.]

18. [Provide details of any other relevant family violence intervention order, family violence safety notice, recognised domestic violence order, or personal safety intervention order where the applicant is the protected person or applicant.]

19. Exhibited to this affidavit and marked **Exhibit [XXX-7]** is a true copy of [insert details of intervention order/s in force].

Personal and surrounding circumstances

20. [Address the 'surrounding circumstances' referred to in section 3AAA(1) of the *Bail Act 1977* (Vic), where applicable, and exhibit any relevant supporting material to this affidavit.

Those surrounding circumstances referred to in section 3AAA(1) are:

- (aa) whether, if the accused were found guilty of the offence with which the accused is charged, it is likely—
 - (i) that the accused would be sentenced to a term of imprisonment; and
 - (ii) if so, that the time the accused would spend remanded in custody if bail is refused would exceed that term of imprisonment;
- (a) the nature and seriousness of the alleged offending, including whether it is a serious example of the offence;
- (b) the strength of the prosecution case;
- (c) the accused's criminal history;
- (d) the extent to which the accused has complied with the conditions of any earlier grant of bail;
- (e) whether, at the time of the alleged offending, the accused—
 - (i) was on bail for another offence; or
 - (ii) was subject to a summons to answer to a charge for another offence; or
 - (iii) was at large awaiting trial for another offence; or
 - (iiia) was on remand for another offence; or
 - (iiib) was at large awaiting sentence for another offence; or

- (iv) was released under a parole order; or
 - (v) was subject to a community correction order made in respect of, or was otherwise serving a sentence for, another offence;
- (f) whether there is in force—
- (i) a family violence intervention order made against the accused; or
 - (ii) a family violence safety notice issued against the accused; or
 - (iii) a recognised DVO made against the accused;
- (g) the accused's personal circumstances, associations, home environment and background;
- (h) any special vulnerability of the accused, including—
- (i) being an Aboriginal person; or
 - (ii) being a child; or
 - (iii) experiencing any ill health, including mental illness; or
 - (iv) having a disability, including physical disability, intellectual disability and cognitive impairment;
- (i) the availability of treatment or bail support services;
- (j) any known view or likely view of an alleged victim of the offending on the grant of bail, the amount of bail or the conditions of bail;
- (k) the length of time the accused is likely to spend in custody if bail is refused;
- (l) the likely sentence to be imposed should the accused be found guilty of the offence with which the accused is charged;
- (m) whether the accused has expressed support for—
- (i) the doing of a terrorist act; or
 - (ii) a terrorist organisation; or

- (iii) the provision of resources to a terrorist organisation;
- (n) subject to subsection (2), whether the accused has, or has had, an association with—
 - (i) another person or a group that has expressed support of the kind referred to in paragraph (m); or
 - (ii) another person or a group that is directly or indirectly engaged in, preparing for, planning, assisting in or fostering the doing of a terrorist act; or
 - (iii) a terrorist organisation.

21. Exhibited to this affidavit and marked **Exhibit [XXX-8]** is a true copy of [insert title of the supporting documentation]. Exhibit each document relevant to surrounding circumstances using a separate exhibit number for each document.

Additional factors to be relied upon in support of the application for bail

22. [Include any additional personal or other relevant circumstances that are not included in the surrounding circumstances outlined in section 3AAA(1) of the *Bail Act 1977* (Vic).]

Alleged risk factors

23. [If the applicant is aware of any risk factors alleged by the prosecution, please address each factor individually.]

Proposed bail conditions

- (a) The applicant reside at [insert details of proposed residence].
- (b) ...
- (c) ...

The contents of this affidavit are true and correct and I make it knowing that a person making a false affidavit may be prosecuted for the offence of perjury.

*Sworn or *Affirmed at¹

*in the State of Victoria

On ²

.....³

Before me, ⁴

On ⁵

.....⁶

A person authorised under section 19(1) of the ***Oaths and Affirmations Act 2018*** to take an affidavit.

*This affidavit was signed and *sworn or *affirmed by the deponent by audio visual link *and the authorised affidavit taker has used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements under section 27(1) of the ***Oaths and Affirmations Act 2018***.

*delete if not applicable

¹ Place (City, town or suburb).

² Date.

³ Signature of person making the affidavit.

⁴ Signature of authorised affidavit taker.

⁵ Date.

⁶ Name, address (personal or professional), and capacity in which authorised person has authority (writing, typing or stamp).